

Message Text

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TO AMEMBASSY SINGAPORE

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C O N F I D E N T I A L SECTION 1 OF 2 CARACAS 6493

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FROM US DEL LOS

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS: SINGAPORE REQUEST FOR TRANSMISSION OF US
ARCHIPELAGO PAPER

REF: A) CARACAS 6067; B) SINGAPORE 2901

FOLLOWING IS TEXT OF REVISED U.S. ARCHIPELAGO PAPER AS REQUESTED
IN REFTTEL B. QUOTE: SUPPORT FOR ARCHIPELAGO PRINCIPLE
WITH RESPECT TO THE ARCHIPELAGO PRINCIPLE, THE NEW COMPREHENSIVE
TREATY ON OCEANS LAW TO BE NEGOTIATED AT THE LAW OF THE SEA
CONFERENCE WOULD INCLUDE A CHAPTER ON ARCHIPELAGO STATES TO
PROMOTE THEIR UNIVERSAL RECOGNITION.

1. ELEMENTS CONCERNING DEFINITION OF ARCHIPELAGO STATE AND DELI-
MITATION OF THE TERRITORIAL SEA AND AREAS OF ECONOMIC JURISDICTION.
WITH RESPECT TO THE DEFINITION OF AN ARCHIPELAGO STATE AND DELIMI-
TATION OF THE TERRITORIAL SEA AND AREAS OF ECONOMIC JURISDICTION THE
CHAPTER WOULD INCLUDE THE FOLLOWING ELEMENTS:

A. AN ARCHIPELAGIC ISLAND STATE WHOSE COMPONENT ISLANDS AND
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OTHER NATURAL FEATURES FORM AN INTRINSIC GEOGRAPHICAL,

ECONOMIC AND POLITICAL ENTITY MAY DRAW ARCHIPELAGIC LINES CONNECTING OUTER POINTS OF THE ISLANDS OF THE ARCHIPELAGO PROVIDED THAT SUCH LINES ENCLOSING SOME OR ALL OF THE ISLAND GROUP ENCLOSE ONLY A SINGLE ISLAND GROUP INCLUDING THE PRINCIPAL ISLANDS WITHIN SUCH GROUP AND DO NOT ENCLOSE AN AREA OF WATER WHICH WILL RESULT IN A LAND-TO-WATER RATIO OF GREATER THAN 1:1 OR LESS THAN 1:5.

B. THE MAXIMUM LENGTH OF ANY SUCH ARCHIPELAGIC LINES SHALL NOT EXCEED 80 NAUTICAL MILES EXCEPT THAT ONE PERCENT OF SUCH LINES MAY EXCEED 80 NAUTICAL MILES PROVIDED THEY DO NOT EXCEED 100 NAUTICAL MILES.

C. THESE LINES SURROUNDING ARCHIPELAGIC WATERS SHALL BE DESIGNATED ARCHIPELAGIC LINES.

D. FOR THE PURPOSE OF COMPUTING THE LAND-TO-WATER RATION IN PARAGRAPH 1, LAND AREAS SHALL INCLUDE WATERS WITHIN REEFS AND LAGOONS OF ATOLLS.

E. WATERS WITHIN ARCHIPELAGIC LINES SHALL BE DESIGNATED ARCHIPELAGIC WATERS.

F. THE TERRITORIAL SEA AND AREAS OF ECONOMIC JURISDICTION OF THE ARCHIPELAGIC STATE SHALL BE MEASURED FROM THE ARCHIPELAGIC LINES.

2. THE REGIME OF ARCHIPELAGIC WATERS, INCLUDING TRANSIT OF SHIPS AND AIRCRAFTS.

WITH RESPECT TO THE REGIME OF ARCHIPELAGIC WATERS, INCLUDING TRANSIT OF SHIPS AND AIRCRAFT THE CHAPTER ON ARCHIPELAGO STATES WOULD INCLUDE THE FOLLOWING ELEMENTS:

A. SUBJECT TO THE PROVISIONS CONCERNING ARCHIPELAGIC PASSAGE OF SHIPS AND AIRCRAFT THE ARCHIPELAGO STATE WOULD EXERCISE SOVEREIGNTY OVER THE RESOURCES, WATERS, SEABED, SUBSOIL, AND AIRSPACE ENCLOSED WITHIN THE ARCHIPELAGIC LINES.

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B. THE TREATY WOULD SPECIFY THAT THE RIGHT OF PASSAGE IS A RIGHT OF TRANSIT IN ARCHIPELAGIC SEALANES, THROUGH AND OVER THE ARCHIPELAGO STATE--THAT IS, A RIGHT OF ARCHIPELAGIC PASSAGE THROUGH THE ARCHIPELAGO STATE--IN THE NORMAL MODE FOR VESSELS AND AIRCRAFT (INCLUDING SUBMERGED TRANSIT, OVERFLIGHT ABOVE ARCHIPELAGIC SEALANES, AND NORMAL MEASURES ASSOCIATED WITH TRANSIT), AND WITH NO REQUIREMENT OF NOTIFICATION.

C. THE TREATY WOULD SPECIFY THAT THE TRANSITING VESSEL OR AIRCRAFT WOULD BE REQUIRED TO TRANSIT THE ARCHIPELAGO WITHOUT UNREASONABLE DELAY.

D. THE TREATY WOULD SPECIFY THAT TRANSITING VESSELS OR AIRCRAFT SHALL REFRAIN FROM ANY THREAT OR USE OF FORCE IN VIOLATION OF THE CHARTER OF THE UNITED NATIONS AGAINST THE TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENCE OF THE ADJACENT ARCHIPELAGO STATE.

E. THE TREATY WOULD SPECIFY THAT TRANSITING VESSELS WILL OBSERVE APPLICABLE GENERALLY ACCEPTED INTERNATIONAL STANDARDS FOR THE SAFETY OF NAVIGATION AT SEA AND THE PREVENTION OF POLLUTION. THE TREATY WOULD ALSO SPECIFY THAT TRANSITING AIRCRAFT WILL OBSERVE APPLICABLE RULES OF THE AIR ESTABLISHED BY ICAO. (ICAO REGULATIONS RELATING TO OVERFLIGHT OF THE HIGH SEAS). STATE AIRCRAFT WILL NORMALLY COMPLY WITH SUCH SAFETY MEASURES AND WILL AT ALL TIMES OPERATE WITH DUE REGARD FOR THE SAFETY OF NAVIGATION.

F. THE TREATY WOULD PROVIDE THAT ARCHIPELAGIC PASSAGE WOULD TAKE PLACE IN DESIGNATED ARCHIPELAGIC SEALANES. SUCH ARCHIPELAGIC SEALANES WOULD RUN FROM HIGH SEAS TO HIGH SEAS AND WOULD:

- (1) INCLUDE ALL NORMAL PASSAGE ROUTES THROUGH ARCHIPELAGIC WATERS, AND WITHIN SUCH ROUTES ALL NORMAL NAVIGATIONAL CHANNELS AND,
 - (2) INCLUDE AN AREA WHICH AT ALL POINTS IS NOT LESS THAN THE NARROWER OF: (A) 80 PERCENT OF THE AREA BETWEEN THE NEAREST POINTS OF LAND ON THE MAIN ISLANDS, E.E. NOT DRYING ROCKS OR SHOALS, OR (B) 100 NAUTICAL MILES.
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C O N F I D E N T I A L FINAL SECTION OF 2 CARACAS 6493

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G. THE TREATY WOULD PROVIDE THAT THE OBLIGATION TO DESIGNATE ARCHIPELAGIC SEALANES PURSUANT TO THESE CRITERIA IS AN OBLIGATION OF THE ARCHIPELAGO STATE SUBJECT TO COMPULSORY DISPUTE SETTLEMENT PROCEDURES GENERALLY APPLICABLE TO DISPUTES ARISING UNDER THE LAW OF THE SEA TREATY. IT IS UNDERSTOOD IN THIS CONNECTION THAT BOTH DELEGATIONS ARE COGNIZANT OF THE ILLUSTRATIVE CHART OF NORMAL NAVIGATIONAL PASSAGES AND CHANNELS USED DURING THEIR DISCUSSIONS.

H. THE TREATY WOULD PROVIDE THAT THE ARCHIPELAGO STATE COULD REQUIRE NOTIFICATION FOR ANY VESSEL OR AIRCRAFT DEPARTING FROM THESE ARCHIPELAGIC SEALANES BECAUSE OF FORCE MAJEURE, DISTRESS OR OTHER CIRCUMSTANCES. (IT WAS UNDERSTOOD IN THIS CONNECTION THAT THE U.S. WILL CONSIDER WHETHER THIS PRINCIPLE COULD BE EXTENDED FROM NOTIFICATION TO AUTHORIZATION IN AREAS OUTSIDE ARCHIPELAGIC SEALANES EXCEPT FOR THOSE VESSELS AND AIRCRAFT DEPARTING FROM SUCH ARCHIPELAGIC SEALANES BECAUSE OF FORCE MAJEURE OR DISTRESS.)

I. PROVISION WILL BE MADE IN THE TREATY TO PROTECT NORMAL SHIPPING OUTSIDE ARCHIPELAGIC SEALANES.

J. THE TREATY WOULD PROVIDE THAT THE ARCHIPELAGO STATE MAY,
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WITHOUT DISCRIMINATION AMONG SHIPS, TEMPORARILY SUSPEND NAVIGATION IN CERTAIN AREAS OUTSIDE ARCHIPELAGIC SEALANES, IF SUCH SUSPENSION IS NECESSARY TO ITS SECURITY. SUCH SUSPENSION WOULD BE DULY PUBLISHED.

SUPPORT FOR UNIMPEDED TRANSIT OF STRAITS USED FOR INTERNATIONAL NAVIGATION.

WITH RESPECT TO THE REGIME OF STRAITS USED FOR INTERNATIONAL

NAVIGATION (OUTSIDE ARCHIPELAGIC WATERS) THE NEW COMPREHENSIVE TREATY ON OCEANS LAW TO BE NEGOTIATED AT THE LAW OF THE SEA CONFERENCE WOULD INCLUDE A CHAPTER ON TRANSIT OF STRAITS USED FOR INTERNATIONAL NAVIGATION TO INCLUDE THE FOLLOWING ELEMENTS:

A. PROTECTION OF THE RIGHT OF UNIMPEDED TRANSIT THROUGH AND OVER STRAITS USED FOR INTERNATIONAL NAVIGATION-- THAT IS, TRANSIT IN THE NORMAL MODE FOR VESSELS AND AIRCRAFT (INCLUDING SUBMERGED TRANSIT AND OVERFLIGHT ABOVE THE STRAITS) AND WITH NO REQUIREMENT OF NOTIFICATION.

B. OBLIGATION ON TRANSITING VESSELS AND AIRCRAFT TO PROCEED WITHOUT DELAY THROUGH THE STRAITS, TO REFRAIN FROM ANY THREAT OR USE OF FORCE IN VIOLATION OF THE UN CHARTER AGAINST THE TERRITORIAL INTEGRITY OR POLITICAL INDEPENDENCE OF THE STRAIT STATE, WITH RESPECT TO TRANSITING VESSELS TO COMPLY WITH GENERALLY ACCEPTED INTERNATIONAL STANDARDS FOR THE SAFETY OF NAVIGATION AT SEA AND THE PREVENTION OF POLLUTION AND WITH RESPECT TO TRANSITING AIRCRAFT TO OBSERVE APPLICABLE RULES OF THE AIR ESTABLISHED BY ICAO (ICAO REGULATIONS RELATING TO OVERFLIGHT OF THE HIGH SEAS). STATE AIRCRAFT WILL NORMALLY COMPLY WITH SUCH SAFETY MEASURES AND WILL AT ALL TIMES OPERATE WITH DUE REGARD FOR THE SAFETY OF NAVIGATION.

C. STRAIT STATE AUTHORITY TO ENFORCE AGAINST VESSELS NOT ENTITLED TO SOVEREIGN IMMUNITY VIOLATIONS WITHIN THE STRAIT OF APPLICABLE INTERNATIONALLY ESTABLISHED DISCHARGED STANDARDS AND TRAFFIC SEPARATION SCHEMES SUBJECT TO APPROPRIATE SAFEGUARDS.

D. APPROPRIATE PROVISION FOR LIABILITY FOR VESSELS AND
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AIRCRAFT FOR DAMAGE TO THE STRAIT STATE CAUSED BY VIOLATION OF THE TREATY OBLIGATIONS IMPOSED ON TRANSITING VESSELS AND AIRCRAFT.

(NOTE: THESE PRINCIPLES WOULD BE REFLECTED IN AGREED ARTICLES IN THE LAW OF THE SEA TREATY BUT DO NOT NECESSARILY AS WRITTEN CONSTITUTE EXACT OR COMPLETE TREATY PROVISIONS. SUCH TREATY PROVISIONS SHOULD BE JOINTLY DRAFTED AT AN EARLY TIME IN ORDER TO ENABLE MAXIMUM SUPPORT FOR MUTUAL OBJECTIVES. THESE PRINCIPLES ARE ALSO TO BE TAKEN AS A WHOLE AND AS SUCH SUPPORT IS DEPENDENT ON EARLY AGREEMENT BETWEEN THE PARTIES.) UNQUOTE
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